IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No 311 of 2003

in

COMPANY APPLICATION No 210 of 1996

For Approval and Signature:

HON'BLE MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

I.I.B.I.

Versus

O.L. OF NEW GUJARAT SYNTHETICSLTD.

Appearance:

1. COMPANY APPLICATION No. 311 of 2003

MR AC GANDHI for Petitioner No. 1

OFFICIAL LIQUIDATOR for Respondent No. 1

NOTICE SERVED for Respondent No. 2,4

SINGHI & CO for Respondent No. 3

MR RM DESAI for Respondent No. 5

MR DS VASAVADA for Respondent No. 6

MR GM JOSHI for Respondent No. 7

CORAM : HON'BLE MR.JUSTICE D.A.MEHTA

Date of decision: 19/02/2004

ORAL JUDGEMENT

On 11/09/2003 an auction was held, but the said order was reviewed / recalled by order dated 16/10/2003 in M.C.A.No.167/2003. The order dated 16/10/2003 came to be challenged and ultimately, a Division Bench of this Court on 24/12/2003 in O.J.Appeal No.49/2003 upheld the order. The same was further challenged by way of Special Leave Petition and it was today informed by Mr.Mihir H. Joshi, the learned advocate appearing on behalf of one of the bidders, Abhishek Shops & Warehouse Cooperative Society Limited, that the Special Leave Petition has not been entertained and hence, the auction can proceed. The learned Counsel for the bidders, intending purchasers and financial institutions have been heard.

2. After the last order, M/s.Shayona Land Corporation had offered a sum of Rs.4,61,00,000/- (Rupees Four Crore Sixty One Lakhs Only) and as the said applicant had deposited the earnest money with IIBI, it was permitted to participate in the auction. Therefore, the following five Bidders participated today;

(1) M/s.Abhishek Shops & Warehouse Cooperative Society Limited

(2) M/s.B.K.Associates

(3) M/s.Mahavir Developers

(4) M/s.Monali Textiles

(5) M/s.Shayona Land Corporation

3. The bidding took place in presence of the learned advocates for the financial institutions and the Official Liquidator. The learned advocates for the respective bidders participated in the proceedings.

3.1 M/s.Abhishek Shops & Warehouse Cooperative Society Limited commenced the bidding at an amount of Rs.4,66,00,000/- (Rupees Four Crore Sixty Lakhs Only) and stopped at Rs.8,91,00,000/- (Rupees Eight Crore Ninety One Lakhs Only).

3.2 M/s.B.K.Associates commenced the bidding at an amount of Rs.4,71,00,000/- (Rupees Four Crore Seventy One Lakhs Only) and stopped at Rs.5,66,00,000/- (Rupees Five Crore Sixty Lakhs Only).

3.3 M/s.Monali Textiles commenced the bidding at an amount of Rs.5,01,00,000/- (Rupees Five Crore One Lakh Only) and stopped at Rs.7,81,00,000/- (Rupees Seven Crore Eighty One Lakh Only).

3.4 M/s.Shayona Land Corporation commenced the bidding at an amount of Rs.4,76,00,000/- (Rupees Four Crore Seventy Six Lakhs Only) and stopped at Rs.9,06,00,000/- (Nine Crore Six Lakhs Only).

4. The successful bidder M/s.Mahavir Developers commenced bidding at Rs.4,81,00,000/- (Rupees Four Crore Eighty One Lakhs Only) and successfully completed the bidding at Rs.9,11,00,000/- (Rupees Nine Crore Eleven Lakhs Only). The auction sale is on the same terms and conditions as mentioned in the offer document and the further addition/modification in the conditions is that;

(i) The sale is one "as is where is basis".

(ii) The purchaser i.e. M/s.Mahavir Developers shall pay 20% of the amount of consideration within thirty days from today to IIBI and the remaining amount of consideration shall be paid within six months from today, but, while paying the last installment, the EMD amount shall be adjusted.

(iii) On payment of the full amount of consideration, the sale document shall be executed.

(iv) The O.L. shall sign the document as a confirming party.

(v) The successful bidder is entitled to possession of the land under sale, only after full payment of consideration and after execution of the sale deed in favour of the successful bidder.

(vi) In case of any default in payment on the aforesaid terms or in case of nonobservance of

any of the terms of sale, the amount of earnest money deposited shall be forfeited.

(vii) All costs, charges and incidental expenses in relation to the said sale, including the cost and expenses incidental to sale, transfer, assignment or any other documentation, if required, to be made in pursuance of the sale, inclusive of the requisite stamp duty, registration fees and other incidental expenses are to be borne by the purchaser.

(viii) It will be open to the purchaser to place its own security outside the premises of the said unit, but, neither the purchaser nor the security personnel so deployed by the purchaser, shall be permitted to enter the premises or the said land, until the sale price is fully paid up by the purchaser and the sale deed is executed in favour of the purchaser.

(ix) The Bank shall continue to deploy its security until full payment of the sale price is realized.

(x) The amount of consideration realized shall be deposited with the State Bank of India.

(xi) It will be open to the purchaser to make one nomination in respect of the assets sold. However, the purchaser shall be responsible and liable qua all the liabilities in respect of the land sold under this auction.

(xii) Copies of valuation reports be given to the purchaser.

(xiii) The Bank is permitted to appropriate the amount of expenses incurred for publishing, advertisement etc. inviting offers for sale out of the sale proceedings, as prayed for in prayer clause (c) of the Judge's Summons.

5. The auction sale of Leasehold land, of the Company in liquidation, bearing Survey Nos. 20/1, 33 and 34/1 - Final Plot Nos. 29 and 31 of Town Planning Scheme No.14 admeasuring about 18,461.00 sq.meters of Dariapur (Unit II) is confirmed in favour of M/s.Mahavir Developers, the successful bidder.

6. The company application accordingly stands

disposed of on the aforesaid terms and conditions.

(D. A. Mehta, J.)

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